



4000-01-U

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records--Electronic Cohort Default Rate Appeals (eCDR Appeals), as Supplemented and Renamed Data Challenges and Appeals Solutions System

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice of an altered system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice of an altered system of records entitled "Data Challenges and Appeals Solutions (DCAS) System," which will replace the "Electronic Cohort Default Rate Appeals (eCDR Appeals)" system of records.

On October 31, 2014, the Secretary published final regulations in the Federal Register that apply to educational programs that are eligible to participate in the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA), because these programs "prepare students for gainful employment in a recognized occupation" (GE regulations). The GE regulations establish a new program eligibility measure and disclosure requirements. As a result, Federal

Student Aid (FSA) will be responsible for many more data challenges, requests for adjustments, and appeals in the coming years.

The DCAS System is the enhanced successor system to the eCDR Appeals system and will be implemented in phases to include all appeals, requests for adjustments and challenges related to institutional cohort default rates (CDRs), the GE regulations, and other student-level data initiatives. After FSA fully implements all phases of the DCAS System, FSA will retire the prior information technology system that housed the eCDR Appeals data.

In addition to the records described above, the DCAS System will contain records regarding borrowers who have applied for and received loans under the William D. Ford Federal Direct Loan (Direct Loan) Program and the Federal Family Education Loan (FFEL) Program.

The Department seeks comment on the altered system of records described in this notice, in accordance with the requirements of the Privacy Act.

DATES: We must receive your comments about this altered system of records on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The Department filed a report describing the altered system of records covered by this notice with the Chair of

the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on September 10, 2015. This altered system of records will become effective upon the later date of: (1) the expiration of the 40-day period for OMB review on October 21, 2015; or (2) [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the altered system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments about this altered system of records to Nikki Harris, Operation Performance Division, Gainful Employment Staff, Federal Student Aid, U.S.

Department of Education, Union Center Plaza, 830 First Street, NE., room 62A4, Washington, DC 20202-5353.

If you prefer to send comments by email, use the following address: [comments@ed.gov](mailto:comments@ed.gov).

You must include "eCDR Appeals / DCAS" in the subject line of your electronic message.

During and after the comment period, you may inspect all comments about this notice at the U.S. Department of Education in room 62A4, Union Center Plaza, 6th floor, 830 First Street, NE., Washington, DC, between the hours of

8:00 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record:

On request, we will supply appropriate accommodations or auxiliary aids to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

FOR FURTHER INFORMATION CONTACT: Nikki Harris. Telephone number: (202) 377-4876. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

Individuals with disabilities can obtain this document in an alternative format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a(e)(4)) requires the Department to publish in the Federal Register this notice

of an altered system of records maintained by the Department. The Department's regulations implementing the Privacy Act are contained in the Code of Federal Regulations in part 5b of title 34.

The Privacy Act applies to a record about an individual that is maintained in a system of records from which individually identifying information is retrieved by a unique identifier associated with each individual, such as a name or Social Security number. The information about each individual is called a "record," and the system, whether manual or computer based, is called a "system of records."

The Privacy Act requires each agency to publish a system of records notice in the Federal Register and to submit, whenever the agency publishes a new system of records or makes a significant change to an established system of records, a report to the Administrator of the Office of Information and Regulatory Affairs, OMB. Each agency is also required to send copies of the report to the Chair of the Committee on Oversight and Government Reform of the House of Representatives, and to the Chair of the Committee on Homeland Security and Governmental Affairs of the Senate.

The Department currently uses the eCDR Appeals system for data challenges, requests for adjustments, and appeals consistent with the requirements of the CDR regulations in subpart N of the Student Assistance General Provisions regulations (34 CFR part 668), which the Department promulgated to implement the CDR requirements of section 435 of the HEA. The CDR is the percentage of borrowers at an institution of higher education (institution) who enter repayment on certain FFEL Loans and/or Direct Loans during the fiscal year and default within that cohort period. Every year, the Department calculates the CDR for institutions twice a year based on a three-year cohort period. The Department calculates and releases to institutions the draft CDRs in February (i.e., "draft cycle"), and calculates and releases the official CDRs to institutions and the public in September (i.e., "official cycle"). Throughout the annual cycle, the Department gives institutions an opportunity to challenge, appeal, and request adjustments to their CDRs based on a number of factors governed by statute and the Department's regulations. The basis for such challenges, appeals, and requests for adjustments may include: incorrect data adjustments, participation rate index challenges, uncorrected data adjustments, new data adjustments,

erroneous data appeals, loan servicing appeals, economically disadvantaged appeals, participation rate index appeals, average rate appeals, and thirty-or-fewer borrower appeals.

Institutions that believe that their CDR is inaccurate, or that believe they should not be subject to sanction or provisional certification based on certain mitigating circumstances, may submit a data challenge during the draft cycle or request an adjustment or appeal during the official cycle. An institution may allege that the Department used inaccurate data for specific loan records in the calculation of the institution's CDR. The appropriate data manager and the Department review and respond to each allegation. Note: Data managers are determined on the basis of the holder of the loan. For FFEL Program loans held by the lender or its guaranty agency, the guaranty agency is the data manager for the purpose of the appeal. If the Department is the holder of the FFEL Program loan, then the Department is the data manager. For Direct Loans, the Direct Loan servicer is the data manager. When the data manager and the Department agree with the allegation, the data is corrected by the data manager. If the data manager and the Department disagree with the institution's allegations (i.e., find

that the data used was correct), then no change will be made. An institution not subject to sanction or provisional certification has no further recourse if a data manager and the Department disagree with their allegation.

For the most recent cohort year, 2011, over 357 institutions submitted data challenges for the three-year draft CDR. Of the 357 institutional data challenges, the submissions ranged from data challenges containing as few as one allegation to as many as 1,500 allegations per challenge.

The GE regulations establish a debt-to-earnings (D/E) rates measure to determine whether a GE program prepares students for gainful employment in a recognized occupation. The D/E rates measure is based on the typical loan debt and earnings of students who previously completed the program. The Department calculates two D/E rates measure: one based on annual earnings and one based on discretionary income. The GE regulations also require institutions to disclose to current and prospective students information about the institutions' GE programs. These disclosures may include the following calculations: median earnings, completion and withdrawal rates, repayment rate, median loan debt, and a program-level cohort default rate (pCDR). We refer to the D/E rates calculations and the calculations for



purposes of the disclosure requirements as the "GE calculations." The Department estimates that it will receive over 300,000 challenges to the data used to calculate draft D/E rates measure in the first year in which the Department calculates rates under the GE regulations. (79 FR 64993, 65004) The Department also expects to receive challenges, requests for adjustments, and appeals with respect to the other GE calculations.

The DCAS System, as an enhanced successor system to the eCDR Appeals system, will help address the rising volume of data challenges, requests for adjustments, and appeals that institutions electronically submit to FSA. The DCAS System will: (1) allow institutions to electronically challenge the data used in their CDRs and GE calculations; electronically request adjustments to and appeal their official CDRs and pCDRs; and electronically appeal their final D/E rates calculation; and (2) provide capability to FSA and data managers to electronically view and respond to those challenges, requests for adjustments, and appeals.

Electronic Access to This Document: The official version of this document is the document published in the Federal

Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of the Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov).

Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Delegation of Authority: The Secretary of Education has delegated authority to Matthew Sessa, Deputy Chief Operating Officer, Federal Student Aid, to perform the functions and duties of the Chief Operating Officer.

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Matthew Sessa,  
Deputy Chief Operating Officer  
Federal Student Aid Delegated  
Duties of the Chief Operating  
Officer, Federal Student Aid.

For the reasons discussed in the preamble, the Chief Operating Officer, Federal Student Aid (FSA), U.S. Department of Education (Department) publishes a notice of an altered system of records, to read as follows:

SYSTEM NUMBER:

18-11-18

SYSTEM NAME:

Data Challenges and Appeals Solutions (DCAS) System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

(1) Operations Performance Division, Gainful Employment Team, Federal Student Aid, U.S. Department of Education, Union Center Plaza, 830 First Street, NE., room 62A4, Washington, DC 20202-5353.

(2) Virtual Data Center (VDC), Dell Systems, 2300 W. Plano Parkway, Plano, TX 75075-8427 (Department's Contractor).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The DCAS System contains records on all recipients under title IV of the Higher Education Act of 1965, as amended (HEA), who receive loans, grants, or work-study. Although the DCAS System contains information about

institutions associated with individuals, this system of records notice pertains only to individuals protected under the Privacy Act of 1974, as amended (Privacy Act).

#### CATEGORIES OF RECORDS IN THE SYSTEM:

The DCAS System contains records regarding: (1) student/borrower identifier information including Social Security number and name; (2) loan information (e.g., last date of attendance, date entered repayment, default date); (3) student status information (e.g., program enrollment information, dates of enrollment, amounts paid for tuition and fees); and (4) documentation submitted by an institution of higher education (institution) or data manager to support its data challenges, requests for adjustments, or appeals (e.g., enrollment verification, copies of cancelled checks, etc.). Note: Data managers are determined on the basis of the holder of the loan. For FFEL Program loans held by the lender or its guaranty agency, the guaranty agency is the data manager for the purpose of the appeal. If the Department is the holder of the FFEL Program loan, then the Department is the data manager. For Direct Loans, the Direct Loan servicer is the data manager.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 1001, 1002, 1082, 1085, 1088, 1094, 1099c.

PURPOSE(S) :

The information contained in the records maintained in this system is used for the following purposes:

(1) To allow institutions to electronically challenge, request adjustments to, and appeal their cohort default rates (CDRs) and calculations (GE calculations) required under the Department's regulations that apply to educational programs that are required to prepare students for gainful employment in a recognized occupation (GE regulations).

(2) To allow FSA and data managers to electronically view and respond to these challenges, requests for adjustments, and appeals from institutions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. The Department may make these disclosures on a case-by-case basis, or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) Program Disclosures. The Department may disclose records to the institution or data manager responsible for entering the information into the DCAS System, in order to provide an institution with an opportunity to challenge the accuracy of the data and the calculations made by the Department using that data, and to obtain clarification or additional information to assist in determining the outcome of the challenges, requests for adjustments, or appeals.

(2) Disclosure for Use by Other Law Enforcement Agencies. The Department may disclose information to any Federal, State, local, or foreign agency, or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction.

(3) Enforcement Disclosure. In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statutory, regulatory, or legally binding requirement, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State,

tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive order, rule, regulation, or order issued pursuant thereto.

(4) Litigation and Alternative Dispute Resolution (ADR) Disclosure.

(a) Introduction. In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components.

(ii) Any Department employee in his or her official capacity.

(iii) Any Department employee in his or her individual capacity if the U.S. Department of Justice (DOJ) has been requested to or has agreed to provide or arrange for representation for the employee.

(iv) Any Department employee in his or her individual capacity where the Department has agreed to represent the employee.

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) Disclosure to DOJ. If the Department determines that disclosure of certain records to DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to DOJ.

(c) Adjudicative Disclosure. If the Department determines that it is relevant and necessary to the litigation or ADR to disclose certain records to an adjudicative body before which the Department is authorized to appear, to an individual, or to an entity designated by the Department or otherwise empowered to resolve or mediate disputes, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) Disclosure to Parties, Counsel, Representatives, or Witnesses. If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(5) Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure. The Department may disclose records to



DOJ or the Office of Management and Budget if the Department concludes that disclosure would help in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(6) Contract Disclosure. If the Department contracts with an entity to perform any function that requires disclosing records to the contractor's employees, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(7) Congressional Member Disclosure. The Department may disclose the records of an individual to a member of Congress or the member's staff in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested the inquiry.

(8) Disclosure in the Course of Responding to Breach of Data. The Department may disclose records to appropriate agencies, entities, and persons when (1) it is suspected or confirmed that the security or confidentiality of information in the DCAS System has been compromised; (2)

the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of the DCAS System or other systems or programs (whether maintained by the Department or by another agency or entity) that rely upon the compromised information; and (3) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist the Department in responding to the suspected or confirmed compromise and in helping the Department prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in a database on the Department's secure servers and in other electronic storage media.

RETRIEVABILITY:

Records are retrieved by a unique institution of higher education code number provided by the Department to participating institutions and the borrower's Social Security number.

SAFEGUARDS:

Access to the records is limited to authorized personnel only. All physical access to the Department's site, and to the site of the Department's contractor where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the buildings for his or her employee or visitor badge.

The computer system employed by the Department and by the Department's contractor offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a "need to know" basis, and controls an individual user's ability to access and alter records within the system. All users of this system of records are given a unique user identification. The Department's Federal Student Aid Information Security Privacy Policy requires the enforcement of a complex password policy. In addition, users are required to change their password at least every 60 to 90 days in accordance with the Department's information technology standards. At the principal site of the Department's contractor in Plano, Texas, additional physical security measures are in place and access is monitored 24 hours per day, 7 days a week.

RETENTION AND DISPOSAL:

The records associated with an institution's challenges, requests for adjustments, or appeals are currently unscheduled pending National Archives and Records Administration (NARA) approval of a records retention schedule. Until a NARA-approved records schedule is in effect, no records will be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Nikki Harris, Operations Performance Division, Gainful Employment Team, U.S. Department of Education, Federal Student Aid, Union Center Plaza, 830 First Street, NE., room 62A4, Washington, DC 20202-5353.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of regulations in 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURE:

If you wish to gain access to your record in the system of records, contact the system manager at the address listed under SYSTEM MANAGER AND ADDRESS. Requests should contain your full name, address, and telephone number. Your request must meet the requirements of regulations in 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURE:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations in 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information maintained in this system of records is obtained from institutions of higher education, data managers, and other FSA systems of records, including the National Student Loan Data System (18-11-06).

EXEMPTIONS CLAIMED FOR THIS SYSTEM:

None.

[FR Doc. 2015-23633 Filed: 9/18/2015 08:45 am; Publication Date: 9/21/2015]